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JUL 06 2007

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**REMARKS**

These Remarks are submitted under 35 U.S.C. § 132 and 37 C.F.R. § 1.116 in response to the final Office Action mailed April 9, 2007.

**Examiner's Action and Applicant's Response**

The Examiner rejected Claims 1-2, 4-6, and 8 as obvious under 35 U.S.C. § 103 based on Rao in view of Aras, et al. ("Aras"). Applicant respectfully traverses the rejections. Claims 1, 2, 4-6 and 8 remain pending.

**Response to the Rejection of Claims 1, 2, 4-6, and 8 under 35 U.S.C. § 103(a)**

In his response on pg. 2 of the final Office Action to Applicant's prior arguments, the Examiner states that Aras teaches that the switching of channel generates an event that is recorded and processed at a home station. The Examiner states that Aras teaches that if the audio visual material (AVM) is a TV drama, it would be assigned a unique AVI [Audio-Visual Identifier]. The Examiner cites examples of such AVIs from Tables IV and V in Aras including FOX-MRP-0265 as indicating the Fox Network and another table entry in Table VI as indicating a switch to the Disney channel, and also showing a change to "Channel 6". The Examiner states on page 4 and 5 of the Office Action that Aras teaches recording this information in a Behavior Collection Table (BCT). The Examiner concludes that it would be obvious to modify Rao's invention to include that the receivers transmit this BCT which include channels tuned by the user, for the advantage of statistical analysis. Applicant respectfully disagrees.

Applicant respectfully submits that, according to the present invention as claimed in Claim 1, receiving a signal from each receiver indicating the previous channel tuned is part of determining whether there is a channel that is not tuned by any of the receivers. As claimed in Claim 1, a program on that unused channel is halted and "information other than a program" is broadcast on that unused channel. Thus, determining which channel is not tuned to is included in the method of Claim 1.

Applicant respectfully submits that Aras is designed to identify the content provider of a program for viewing statistics and thus records that information in the table, rather than recording which channel is not tuned. Applicant respectfully submits that Aras teaches away from having a

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receiver send a signal indicating the channel tuned and previous channel tuned. Applicant respectfully submits that Aras is designed to record information about the viewed material itself, not what channel is not tuned. More specifically, as stated in Aras, "collecting subscriber behavior in a set-top can be provided by collecting user channel transitions. However, such statistics do not provide for the collection of any information about the viewed material itself. Since the viewed material may be received through a variety of channels controlled by more than one source (for example some signals may be generated by the cable-tv company while others may be produced by local stations), simply recording channel transitions and relaying them to a central processing point will not be sufficient to collect accurate viewing statistics." (Col. 2, lines 42-52). Thus, Applicant respectfully submits that Aras teaches that an AVM which has an associated AVI is identified by a "content owner" such as MGM, Paramount Studio, etc. as shown in Table II. Regarding the example in Aras that the Examiner cited regarding Disney in Table VI, Applicant respectfully submits that Table VI lists AVIs including "PARA-MOV0231", and "DIS-MOV0065" and that "PARA" and "DIS" refer to the **content providers** Paramount Studios and Disney Studios, **not to particular channels**. Applicant respectfully submits that it is well known that Disney Studios program could syndicated on a channel other than the Disney channel.

Using the Examiner's example from Aras regarding the AVI FOX-MRP-22265, Applicant respectfully submits that Aras teaches that this AVI is encoded with a content owner field, i.e. FOX, a title field, i.e. Melrose Place, MRP, and identification number described in Table I, i.e. 0265. Applicant respectfully submits therefore, that Aras teaches that since, for example, Melrose Place from the **content provider** FOX could be broadcast on a variety of channels, for repeats, etc. it identifies FOX in the AVI, rather than the channel. Therefore, it is respectfully submitted that Aras teaches away from the method, as claimed in Claim 1.

Further, Applicant respectfully submits that Aras does not indicate a receiver sending a signal indicating the channel tuned and last channel tuned. For example, Table V in Aras cited by the Examiner lists a show by the Fox **content provider**, FOX-MRP-22265 and later lists "Channel 6". Applicant respectfully submits that listing in the table before Channel 6, "SURFING", does not teach or suggest which previous channel was tuned before Channel 6, nor does FOX-MRP-22265 since this material of content provider FOX might be produced by local stations or generated by the cable TV company, e.g. syndicated on channel other than the FOX channel, as described in Aras above. Applicant respectfully submits therefore, that Aras is designed to identify the content

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provider, **not** the previous channel. (See Col. 2, lines 42-52 above). Thus, Applicant argues that Aras teaches providing information about the material itself, i.e. the content provider, in the Behavior Collection Table, and thus, would **teach away** from being combined with the invention in Rao, et al. to providing a signal from the receiver indicating the current channel tuned and last channel tuned. Applicant respectfully submits therefore, that there would be no suggestion and motivation to add the BCT from Aras to Rao unless content provider information was desired.

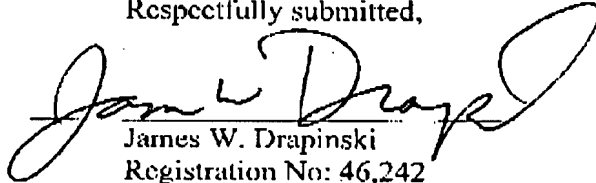
For all of the above reasons, Applicant respectfully submits that Claim 1 is non-obvious based on Rao in view of Aras. Claim 2 depends from Claim 1 and is thus respectfully submitted as being non-obvious for the reasons given above for Claim 1. Claim 5 is similar to Claim 1 and is respectfully submitted as being non-obvious based on Rao and Aras for the same above reasons for Claim 1. Claims 6 and 8 depend from above Claim 5 and are thus respectfully submitted as being non-obvious based on Rao and Aras for the reasons given above for Claim 5.

#### Conclusion

For the above reasons, Applicant respectfully submits that all pending claims, Claims 1, 2, 4-6, and 8, in the present application are allowable. Such allowance is respectfully solicited

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (415) 984-8200.

Respectfully submitted,

  
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July 6, 2007

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